



January 25, 2012

SENATE BILL No. 376

DIGEST OF SB 376 (Updated January 24, 2012 11:43 am - DI 106)

Citations Affected: IC 11-9; IC 11-13.

Synopsis: Release of long term inmates. Prohibits the parole board from making a clemency recommendation concerning an inmate who has received a sentence of life without parole, and prohibits the parole board from conducting an investigation or holding a hearing concerning an inmate sentenced to life without parole unless requested to do so by the governor. Provides that the department of correction shall release a long term inmate if the inmate meets certain criteria. Repeals superseded provisions.

Effective: July 1, 2012.

Waterman

January 9, 2012, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.
January 24, 2012, amended, reported favorably — Do Pass.

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SB 376—LS 6781/DI 107+



January 25, 2012

Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

SENATE BILL No. 376

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 11-9-2-2 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) As used in this section,
3 "victim" means a person who has suffered direct harm as a result of a
4 violent crime (as defined in IC 5-2-6.1-8).

5 (b) **Except as provided in subsection (d)**, the parole board shall
6 submit to the governor its recommendation regarding an application for
7 commutation of sentence, pardon, reprieve, or remission of fine or
8 forfeiture. Before submitting its recommendation, the parole board
9 shall do all of the following:

10 (1) Notify:

11 (A) the sentencing court;

12 (B) the victim of the crime for which the person was convicted
13 (or the next of kin of the victim if the victim is deceased or
14 incompetent for any reason), unless the victim has made a
15 written request not to be notified; and

16 (C) the prosecuting attorney of the county where the
17 conviction was obtained.

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(2) Conduct an investigation, which must include the collection of records, reports, and other information relevant to consideration of the application.

(3) Conduct a hearing where the petitioner and other interested persons are given an opportunity to appear and present information regarding the application. The hearing may be conducted in an informal manner without regard to formal rules of evidence.

(c) The notice to a victim or the next of kin of a victim that is sent under subsection (b)(1) must comply with the requirements for notices to victims that are established under IC 11-13-3-3.

(d) The parole board may not make a recommendation to the governor regarding an application for commutation of sentence, pardon, reprieve, or remission of fine or forfeiture concerning a person who has received a sentence of life without the possibility of parole. If the parole board receives an application from a person who has received a sentence of life without the possibility of parole, the parole board shall forward the application to the governor without recommendation. Unless requested to do so by the governor, the parole board may not conduct an investigation under subsection (b)(2) or conduct a hearing under subsection (b)(3) concerning a person who has received a sentence of life without the possibility of parole.

SECTION 2. IC 11-13-9-2, AS AMENDED BY P.L.228-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) As used in this section, **the years of an inmate's confinement is are "consecutive"** if:

(1) the inmate has remained in the continuous custody of the department for the requisite length of time; or

(2) the inmate would have remained in the continuous custody of the department for the requisite length of time, but:

(A) was released from the custody of the department on the basis of an erroneous court order; and

(B) returned to the custody of the department not later than seventy-two (72) hours after the erroneous court order was rescinded.

(b) Notwithstanding any other law, as soon as practicable after an inmate has been confined to the custody of the department for:

(1) twenty-five (25) consecutive years;

(2) twenty-four (24) consecutive years if the inmate has received one (1) year of credit time under IC 35-50-6-3.3;

(3) twenty-three (23) consecutive years if the inmate has received

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1 two (2) years of credit time under IC 35-50-6-3.3;
 2 (4) twenty-two (22) consecutive years if the inmate has received
 3 three (3) years of credit time under IC 35-50-6-3.3; or
 4 (5) twenty-one (21) consecutive years if the inmate has received
 5 four (4) years of credit time under IC 35-50-6-3.3;
 6 the department shall identify the inmate. to the parole board and
 7 provide the parole board with the inmate's offender progress report.

8 **(c) If the inmate identified in subsection (b):**

9 **(1) has not been deprived of any good time credit in the prior**
 10 **six (6) months; and**

11 **(2) has graduated at least from high school or has obtained:**

12 **(A) a general equivalency degree; or**

13 **(B) a state of Indiana general educational development**
 14 **(GED) diploma;**

15 **the department shall release the inmate.**

16 SECTION 3. IC 11-13-9-3 IS REPEALED [EFFECTIVE JULY 1,
 17 2012]. Sec. 3: Upon receipt of the material described in section 2 of
 18 this chapter, the parole board shall set a hearing to determine whether
 19 the circumstances warrant the inmate's discharge from the custody of
 20 the department.

21 SECTION 4. IC 11-13-9-4 IS REPEALED [EFFECTIVE JULY 1,
 22 2012]. Sec. 4: The parole board shall consider all relevant factors in
 23 determining whether the inmate is to be discharged under this chapter
 24 and must consider a community investigation report submitted to the
 25 parole board. The parole board shall give special consideration to an
 26 inmate who demonstrates each of the following:

27 (1) A good conduct history during confinement.

28 (2) Proof that the inmate will have suitable living quarters in a
 29 community if the inmate is discharged.

30 (3) Proof that one (1) or more employers in the area in which the
 31 inmate would reside if discharged have offered to employ the
 32 inmate for at least thirty (30) hours a week on the same terms as
 33 the employer employs other employees.

34 (4) Proof that the inmate:

35 (A) is at least a high school graduate; or

36 (B) has obtained:

37 (i) a general equivalency degree; or

38 (ii) a state of Indiana general educational development
 39 (GED) diploma.

40 SECTION 5. IC 11-13-9-5 IS REPEALED [EFFECTIVE JULY 1,
 41 2012]. Sec. 5: (a) If the parole board determines that the inmate:

42 (1) has been properly rehabilitated; and

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(2) has suitable plans to carry out if discharged;
 the parole board shall discharge the inmate from the custody of the
 department. An inmate who is released from confinement under this
 subsection must be placed on parole as described in subsection (b):

(b) An inmate who is discharged from the department under this
 section shall be placed on parole as follows:

(1) An inmate who is required to be placed on parole for the
 remainder of the inmate's life under IC 35-50-6-1(e) shall be
 placed on parole for the remainder of the inmate's life:

(2) An inmate who is:

(A) not an inmate described in subdivision (1); and

(B) not required to serve a period of probation;

shall be placed on parole for two (2) years:

SECTION 6. IC 11-13-9-6 IS REPEALED [EFFECTIVE JULY 1,
 2012]. Sec. 6: If the parole board denies an inmate's request to be
 discharged under this chapter, the inmate may petition for a new review
 not earlier than one (1) year after the parole board denies the request:

SECTION 7. IC 11-13-9-7, AS ADDED BY P.L.119-2008,
 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 JULY 1, 2012]: Sec. 7. The ~~parole board or the~~ department shall notify
 a registered crime victim in accordance with IC 11-8-7-2 if an inmate
 is discharged **or released** under this chapter.

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 376, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 376 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 8, Nays 1.

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